

Milton Town Council Meeting
Milton Theatre, 110 Union Street
Monday, November 5, 2007
7:00 PM

1. Public Participation

Mayor Post: called the Public participation of the meeting to order at 7:00 PM

Council members present: Martin-Brown, Duby, Hudson, Prettyman, Abraham, Betts, Mayor Post. Mayor Post reminded the public that comments need to be kept to 3 minutes.

Robert Fogle, 405 Union Street: Requested explanation from Councilwoman Hudson to explain recent article in Cape Gazette. I asked several Council members if they knew the meaning and they did not. C Hudson: If we're going to have business in the Town it should not be in a haphazard manner. It should be planned and if the Town has a plan an ordinance for Town Center. I believe that businesses should be located either in commercially zoned areas; or in the Town Center. That was the sum of the article. Also, what is the time period for putting up signs prior to the election? Mayor Post stated it was 90 days.

Ellen Passman, 305 Federal Street: As owner of Curves we get a lot of the young pre-teen and teenage boys and girls who are not in their houses, are not sitting on a couch, trying to be healthy and these kids are skateboarders. Every single business in Milton Park has squealed, called the cops or threatened them. I said open the door. If they look like your mother or grandmother and say welcome to Curves. They were very polite. My request is we put in some kind of skateboard. There are children in our Town who are over the age of 8 and they really need something constructive to do. C Duby stated she will add to the agenda of the next Parks and Recreation Committee meeting and we'll get information from the Town staff.

Cliff Newlands, Wagamon's West Shore: A lot of us got concerned that the Town was going to pull the property tax Assessment from the Town budget so we got together and crated a petition. We went to Wagamon's West Shore, Cannery Village, and Chestnut Crossing. We got 175 signatures. The petition reads: "We the citizens of the Town of Milton petition the Town and Town Council to proceed with the property tax re-assessment that is in the approved fiscal year 2008 Town budget. Properties have not been assessed since 1994. With the amount of new development and current market conditions assessment needs to take place." If you look at the handout, we have approximately 1569 properties within Milton. 502 are vacant land and they pay anywhere from \$1.23 to \$99 in taxes. The remaining couple of sections of property are homes. There are 446 homes that pay between \$100 and \$299 in taxes; 442 homes that pay between \$300 and \$599 in taxes and that's 85% of the homes within Town. They're paying a total of \$268,000 in taxes. The remaining 166 homes the petition is here that we have signatures for are paying anywhere from \$600 to \$1300 in taxes. That is a total of \$130,000 in taxes. The petitioners here pay 1/3 of the Towns taxes. That's a big inequity. We know you're going to have to raise taxes at some point soon because you have a shortfall in the Town budget. The tax rate right now is .41 cents per \$100 of assessed value. If you raise that by \$.01 the petitioners here get taxed \$200 a year extra, whereas the remainder of Town gets taxed between \$50 and \$100. That's a 1/4 to 1/2 of what we pay. One-third of the Towns properties are second homes. We know this because the tax bill was outside of Town. This has to be looked at. C Hudson: When Jack Hudson was Mayor we did our assessment every 5 years. I think we need to do that again. When the reassessment is completed, we need to set up a payment schedule similar to what Delmarva

did when they implemented their high rates so people can made arrangements. Mayor Post: I support the assessment, but I still believe some type of abatement needs to be developed for those seniors who are on very fixed incomes. C Duby: I really appreciate the work that's been done on this. We can't make any decision with out the data. This is a really great start.

Katherine Grieg, 326 Union Street: I represent the Milton Garden Club. I passed out a paper showing what the Garden Club used the money for in the 2006/2007 budget. You gave us \$4500 and I went over \$102. I didn't take into account how much shipping would be for planters and liners. We have received the check for the 2007/2008 budget. We thank you very much. You can see the results of what we've done with the money. Just for your info, we have planted 215 mums, 6 flowering shrubs, 8 evergreens, 28 flowering cabbages and about 400 pansies. The next day we'll be doing something as a group will be Saturday, December 1. We'll be meeting at 9AM at the Town parking lot. We welcome anybody who wants to come and help. We will be cleaning up the flower beds, planting the spring flowering bulbs, mulching and hanging of the greens. If you have any evergreens that need trimming give me a call. We can use the trimmings for holiday decorations. We really need white pine and Leland Cyprus. If you have a magnolia tree we can use the leaves from that as well. My number is 684-3804. On Sunday, 21 of us will be going to Philadelphia for the 2007 Community Greening Award that's being presented to the Town and the Garden Club for the community gardens that we do. C Betts: Katharine I'd like to thank you and the Garden Club for all that you do. The Town looks beautiful.

Jim Welu, 30231 East Mill Run: I'd like to speak to the conditional use of the Brittingham/Dr. Howard property on Union Street. I really think the Council has another chance to revisit this. The Town code is very clear that in residential zones home offices are one of the permitted uses that the Town can approve, even though it's a residential zone. Medical facilities are an approved use in the Town Center zone. What you are asked to approve is a real change of moving the medical facility from what would be the Town Center into the residential zone. That's now what is envisioned by the town documents. This is coming under conditional use, but I think there's plenty of commercial property vacant in this Town that a nice medical facility could be built on. We have one next to the Historical Museum. Between that and Bodies, there's a nice parcel out on Atlantic Street at the end of Town part of Cannery Village subdivision where 88 begins. That would be a great location and it's designated for commercial use. Conditional sounds good, but doesn't mean temporary. Dr. Howard could develop this into a medical facility, he could bring in a partner, he could sell the medical practice and this could continue on and on as a commercial use in a residential zone. I just don't think it's the appropriate place to be developing more commercial use.

Mayor Post this will end the public participation.

2. Call to Order – Mayor Post opened the Milton Town Council Meeting at 7:22 PM.
3. Moment of Silence – Councilwoman Betts. All rose for a moment of silence.
4. Pledge of Allegiance to the Flag was said by all in attendance.

5. Roll Call Vote: C Martin-Brown, here; C Duby, here; C Hudson, here; C Prettyman, present; C Abraham, present; C Betts, present; Mayor Post, present
6. Additions or Corrections to the Agenda:

John Brady: The Roads Report will have a request for a first reading of an ordinance relating to parking on Church Street and I've been requested by Vice Mayor Betts to have added as new business Part E, An ordinance to amend Chapter 18, Article 6, Section 18.34 relating to parking on Church Street. This would be just a first reading. It still would require a public hearing in December before it can be ordained and established by the Town Council. C Betts: I make a motion C Prettyman: Second. Mayor Post: We have a motion and second to amend as presented by the Town Solicitor. C Hudson: Under old business it says roll call vote regarding three areas in question of the proposed Charter, my question for Mr. Brady is this sufficient description to give the Towns people knowledge of what we're voting on tonight. John Brady: I believe so (explains why). There was a workshop; there have been two public hearings on the Charter. There are three questions from the workshop that came up. The first was on the term of Mayor. The second area was the resign to run requirement. The third area is the choice of the rules of order. I suggested the Charter not be sent to the Legislature until January so no confusion would take place regarding the March 2008 elections. C Hudson: Thank you for the explanation, but my concern is that the description is not the agenda. People looking at the agenda and planning to attend would have no clue as to what those three areas are. Mayor Post: I also want to clarify that our agendas are reviewed by the Town Solicitor prior to being posted. There were at least 16 meetings on the subject. C Hudson: I just wanted to make sure this agenda met FOIA requirements.

7. Approval of Agenda
Mayor Post: We have a motion and a second, roll call: C Prettyman, yes; C Abraham, yes; C Betts, yes; C Hudson, no, I think under 14A Old Business; C Duby, yes; C Martin-Brown, yes; Mayor Post, yes. Motion carried.
8. Presentation of Minutes: September 20, 2007; October 1, 2007
9. Approval of Minutes by Council
C Prettyman: I make a motion to accept the Sept 20, 2007 and Oct 1, 2007 as prepared. C Abraham: Second. Mayor Post: We have a motion and a second, any questions or discussion, all in favor, motion carried
10. Committee Reports

Economic Development

C Duby: There is no report. We are organizing a meeting around the Main Street project.

Milton Development:

C Betts: The Milton Theatre production of Dracula grossed approx. \$7500 and netted approx. \$5000. The Trick or Treat House, which was for the benefit of the Theatre, had a very turnout despite the dreary weather. We want to thank the Wilmington Trust Bank for

awarding the savings bond for \$50 to Alex Malony for being the best volunteer. Thanks also to the Fire Company for the running the information on their marquee for the Trick or Treat House and Dracula production. The upcoming events at the Milton Theatre are the John Milton Poetry Festival on Sat, Dec 8, 9AM to 9PM and Sun, Dec 9, 9AM to 1PM. There will be a Christmas House Tour on Sat, Dec 8, from 2PM to 7PM. Tickets are available at the Theatre or from any member of the Milton Development Corp. The Nonsense Christmas Musical will be playing at the Theatre on Dec 14, 15 & 16.

C Martin-Brown: The John Milton Poetry Celebration begins Fri night, Dec 7, 7PM. It's the night all the schools are here and we hope the community will turnout.

Streets & Sidewalk Committee:

C Betts: There will be a meeting on Wed, Nov 14, 7PM, Milton Theatre. The purpose is to discuss the results of the survey, which were sent to the property owners that were identified as needing sidewalks in front of their properties repaired. Letters have been sent to those affected. The public is encouraged to attend also.

Parks & Recreation:

C Duby: This committee has not met since previous Council meeting because we're waiting for the request for quotes on the park equipment and the gazebo. The draft will be circulated to the committee and we'll then have a meeting.

Health & Environment:

C Hudson: This committee meets the 4th Tues of every month, 6PM, Milton Library. We had a guest speaker, Henry Poole, from the Delaware Forestry Service. It was a very good discussion. He talked about the things necessary to have an inventory of Milton's public trees. One reason to have an inventory is so you know how to plan to manage them. Having a survey of the trees and a management plan are the first two steps you would need toward a tree ordinance. Some of the things necessary for an inventory would be sector maps of the Town, a picture book of the species of trees likely to be found, paper inventory forms, volunteers to conduct the inventory, training of the volunteers and compilation of the data collected by the volunteers. He could give us training one Saturday morning and then with the forms and picture books, we could go out on our own, just like we when glued the medallions down on the sewers. We would then send him the data and he would create a survey of our public trees. He will get back to us with a sample inventory of what a few streets in our Town would be and then he will help us with everything we need to do a survey of Milton's public trees. We welcome anyone to come to our meeting on the 4th Tuesday of every month.

Emergency Preparedness:

C Hudson: This committee meets the 3rd Tuesday of every month, 6PM, Milton Library. Some of things we talk about are informal patrols. There are a lot more people walking around Town. These patrols will report anything suspicious to the police. Thank you to Chief Phillips for letting Corporal Rockwell attend the meeting as our liaison. We had two complete maps of the Town. One previous complaint was previous maps from Town Hall were incomplete. We have from the County two maps of the entire Town. We gave one with all the street names to the Police and one to the Fire Company. We are very active

recruiting people to help us patrol the Town. We're working on putting up Neighborhood Watch signs. This is the only one sponsored by the police. We welcome anyone to attend our monthly meeting and participate on the Neighborhood watch.

Planning & Zoning:

C Prettyman: I make a motion to accept the Planning and Zoning Commission report dated October 16, 2007 as presented. C Betts: Second. Mayor Post: We have a motion and second, any questions, all in favor, motion carried.

Sewer & Water

C Abraham: This committee did meet on October 30 to handle 8 billing discrepancies and repair issues.

11. Town Manager Report

George Dickerson: I'd like to introduce Shaun from Inclind, Inc. Inclind is the Company who provides our website page. The Town staff as been working with them to redesign that.

Shaun Tyndall: I'm joined by Frank Payton from Inclind as well. What we're going to do is show you a sneak peak of what the new Town of Milton website will look like. We've been working with Town since 2005. Subsequent to that time the website is seeing between 250-300 visitors per day that visit the website. That led to some additional feedback and management control that have been requested this year in order to improve the website. We'll be updating the front end (which the public sees) as well as the back end. One thing the staff can do today vs. in the past is the ability to add pages and sections to the website at will. So now the Town staff will have the control on what is presented in the website vs. the contractor.

George Dickerson: The end of year budget vs. actual report is a document that Council and the public should know about. Are we, the staff, keeping within the budget guidelines? I'd like to read a memo from me into the record: (read into record). We will put on the website. All the appropriate documents have been picked up by the Auditors for September. The will be in our offices the week of November 12-16. I met with Cabe Associates on the bid documents for the new playground which was approved in the new budget. The proposal is scheduled to be done by Nov 10. When I get that from Scott at Cabe I will then give to C Duby who I believe will be calling a meeting of the Parks and Recs Committee to review that. As soon as we get that back to Cabe then the bids can go out for the new playground equipment and gazebo. Please stop by Town Hall to see the John Milton bust that we have on display. The last time a water facilities plan was done was in 2003. This was done by Cabe Assoc. The cost for Cabe to complete a new water facilities plan is \$24M. Cabe has applied for a State grant for 1/2 of the cost of the project. The scope of the work will be to update the Town's system map to include all existing and new and approved water system elements, testing of selected fire hydrants, update to the Towns water model based on recent water system improvements and new hydrant testing, plan new water system infrastructure needed to expand the water system in to the Towns growth area, review the need for additional water source, wells, water storage, water towers and recommended locations for these. When the report is complete it will give us a look at what our water looks like for use and expected

volume of use later. Complaint Report - Since Feb 147 complaints have been issued; 12 are still being investigated. Ellen Passman's issue with opening a skateboard park – Our insurance carrier said it is possible to insure it and it would not cost anything else. However, it is conditional. The conditions are it has to be totally fenced, safety equipment has to be worn, has monitored by adult supervision at all times in the hours that it's open. It would take a well thought out volunteer system. I received a request from C Hudson with regard to maps. I had asked Cabe to do that. They are in the process of getting maps with streets also. I think they're almost complete.

12. Town Solicitor Report

John Brady: This is new on the agenda as it relates to the public comment portion of the Council meetings. Currently the Town is aware of two lawsuits which I'm currently defending. The first involves Chestnut Properties against the Town of Milton. A scheduling conference has been set by the Court on November 27. I have been in contact with Chestnut Properties and there has been a meeting and that may be resolved before the end of this month. With regard to the lawsuit filed by two individuals and the Coalition for Transparent Government vs. the Town of Milton, motions were supposed to be heard last Friday. Last Wednesday the attorneys for one of the parties filed a request for continuance. The judge assigned to the case continued the motions until December 7 at 11AM in Superior Court Room #2, I believe. With regard to the Board of Adjustment and the number of people that belong on the board, a couple of the members of the Board attended some training provided by the State, the University of Delaware and the Institute (IPA) which is the Institute for Public Administration. I also reviewed the Town Ordinance. I have a phone call in to Mr. Willard, the former Town Solicitor. Apparently, a couple of years ago the Board of Adjustment was expanded to 7 members, but under Title 22, Chapter 3 there are a maximum of 5 members that can be on the Town Board of Adjustment. I've asked that the 2 new members not be sworn in until I've had time to review it and make a determination. I looked at the Town Ordinance. It looks like it was properly passed. I also looked at State Law and can't find an exception. This is not New Castle County. They're the only ones allowed 7 members. When you have to balance Town Ordinance vs. State Law, State Law wins. I'd like to do a little more research. Mayor Post: The Ordinance also reflects as if the State had amended their law. John Brady: I attended training with municipal lawyers in Nashville, TN and the concern that came up was making a proper record for appellate review. The Board of Adjustment, by virtue of their appeal, goes to Superior Court. It is very objective. They have to make in their decision certain specific findings. This is extremely important especially for the new Historic Preservation Commission because both of those can deal with demolition permits. Safety and security of members going out and looking at the properties have now been addressed by a recommendation that onsite visits by Board members prior to a vote should no longer be permitted. What the Courts want to see nationwide is a video tape or a DVD of the property submitted with the application for a demolition permit so that the record can be preserved. Many people see things differently, especially when there's no electricity at the building and you have to use flashlights. You don't want Board members falling through a hole or leaning against a wall and getting hurt. This will allow members of the public who may not have been allowed into the property because of safety issues to fully see the entire the record by playing the video or DVD at the hearing where the determination is made. I am working on an ordinance amendment to make that part of the record to help

make it easier for the applicant and make it more objective so the appellate record can be properly preserved. With regard to FOIA, until about 3 weeks ago agendas could be amended up to 6 hours before a meeting and the Attorney General's office said that's ok. Or it could be amended at the meeting as long as something came up at the meeting that caused the agenda to be changed at a meeting, like a report or an issue. The AG now has opinioned on a set of facts where an agenda was published for a town and 48 hrs before the town meeting another issue that was not of emergency circumstances was added to the agenda. The AG says that is now improper if a final vote is being taken. A preliminary vote, such as a first reading, can be added; but a final vote where a determination is being made on an issue should be rolled over to the next meeting. It is available on their website, it's the opinion regard the Town of Middletown. The AG is trying to crack down on agendas being amended less than 7 days out. C Hudson: Concerning the Chestnut Properties was there a motion for dismissal? John Brady: Yes, the motion to dismiss was filed. It was supposed to be heard on October 21. The basis for the motion was no application. No application fee had come in from Chestnut Properties regarding the request for review by the Town. After their received a copy of my motion the Town accepted the fee and application rendering that motion mute. That's why it went to scheduling conference once the application and fee was received. C Hudson: Can you give us an update on the Mayor's lawsuit against the Public Integrity Commission? John Brady: The Public Integrity Commission record was received by my office last week. A briefing schedule was established and the opening brief is due Thursday, Nov 15. Once the brief is filed a copy will be posted on the Town website.

13. Written Reports from:

Maintenance Report:

C Prettyman: I make a motion that we accept the Town Monthly Maintenance Report dated October 2, 2007 as written. C Betts: Second. Mayor Post: We have a motion and second to accept the Maintenance Report, any questions, all in favor, motion carried.

Code Enforcer Report:

C Prettyman: I make a motion that we accept the Code Enforcer Report from Mr. Dennis dated October 2007. C Abraham: Second. Mayor Post: We have a motion and second, any questions, all in favor, motion carried.

Police Report:

C Betts: I'll make a motion to accept the Police Report as written and want to thank the Chief for arresting the suspect accused of rape. C Prettyman: I'll second and concur to the statement Vice Mayor Betts just made. The Chief and I were able to go to see Ocean View's new Police Dept. and recommend other Council members to do so. Mayor Post: We have a motion and second, any questions, all in favor, motion carried.

14. Old Business

Role call vote regarding three areas in questions of the proposed Charter

C Duby: I'd like to clarify what Mr. Brady said earlier about this. We are discussing the areas and we can take a vote on those three areas tonight, but we are not taking a vote on the final charter. Is that what you said Mr. Brady? John Brady: That's correct. The final Charter should be advertised as the new proposed Charter for the Town. The citizens should have a chance to see a final complete proposal in these three areas. C Martin-Brown: Mr. Brady, I would like to make some additions or deletions to the Charter tonight. It would be my understanding that they could be entertained but of course it would have to wait for the final vote of the Council for additions to be considered. Is that correct Mr. Brady? John Brady: Are they different that the three areas regarding Section 4? C Martin-Brown: Yes they are. I interpret that I will be allowed to place in the discussion these additions and deletions which I would like to propose for the Charter. John Brady: The question that would be before the Council would be do they want to do them all together, and if so, then I would suggest that we put the additional items that you wish to review and do all the items at the next meeting and then have a final version available for the January meeting. C Martin-Brown: Do you wish me to proceed or do you want to bring these other three items up first? C Prettyman: I would like to make a motion that we listen to C Martin-Brown comments that she has to make and then have it all compiled and go ahead and vote on the whole page at that time. Is that possible? John Brady: The process would be better served by going through all the different items that would be changed at one meeting and then at a subsequent meeting going up and down on the proposed Charter, have all the items, including the three from tonight, considered at the December meeting. Based on the Middletown opinion from the Attorney General's office where you have to give the full notice of the final vote I want to make it absolutely clear that a final version of the Charter is out there for at least 20 days and advertised so if there's any final comment to the final proposed version of the Charter that can be there and it's clear because right now there are three sections that are in play. If you voted on those three sections and then voted on the Charter tonight there could be an issue that you didn't give proper notice to the final vote. C Duby: Could I ask if C Martin-Brown present her recommendations tonight and then whether we schedule a special meeting or do it in December we have all of them to consider here tonight so we don't have another meeting for her to present them. John Brady: My suggestion would be to introduce the potential areas for amendment tonight and then set that for a vote on those subsections on December 3 and then have a final vote for the Charter which would be on January 7, 2008. Don Post: Or we could have that final meeting in mid-December with a special meeting, take the vote and get it over with. We'd then have several weeks to get it prepared to be ready to go in Legislation in January. The Legislature doesn't return until January 8 so if it's past December 4 their still not going to act on it until at least January 8. The Town Council meeting is January 7. So if it was passed on January 7 then it could be transmitted to the Legislature. They usually don't review Charter changes in January because they're only there for three weeks, but that would put it on track to have a vote after the election in March. C Martin-Brown: I think this creates a very unfortunate situation because the Charter for a Town should not be a political football. If it means that tonight we could take a vote on the three items that have been the public domain I am willing to withdraw my changes. I feel that this as a former chair of the Ad Hoc Charter Committee and the work that we did at this juncture I don't think it's worth the risk of having this thing drag on. I would like to share with the public some of the items that I would have tabled tonight had we decided to go forward. I was going to suggest on page 5 where the term Section 6 Method of making nominations for Town Councilman be changed to Town Council Member. Our Ad Hoc Committee wanted a gender-free text. John Brady: I don't see that as a major issue. That could be fixed. C Martin-

Brown: On page 17 Section 20 Town Solicitor line 5. The Town Solicitor shall be a member in good standing of the Bar of the State of Delaware. I would like the sentence to stop there. C Prettyman: Why? C Martin-Brown: Because any member of the Delaware bar is good standing ought to be eligible as a candidate for Town Solicitor. We recruited and had our first Town Manager from Newark, DE who commuted down here and was acceptable as Town Manager and if he chose to continue living in Newark, DE that would be his choice. And by limiting a applicant Town Solicitor to one county it mitigates against a pre-marketplace of credential lawyers in the State of Delaware. Don Post: Just for the public's knowledge the sentence ends with offices in Sussex County. John Brady: This actually came up with Rehoboth Beach about two years ago. The Town of Rehoboth Beach wanted to hire a Solicitor who had offices in Kent County and they're Charter said they had to have office in Sussex County. So he affiliated with a Sussex County law firm and rented a room until their Charter was changed. Once the Charter was changed, he no longer rented the room. The member of Council is correct. Many Charters have eliminated the requirement that the offices be in Sussex County. That predated my involvement with this Charter the way this says it. That is something that would have to be put out in advance. C Hudson: You made a comment in the minutes of July 30, 2007 relating to Section 3 sub-paragraph N Annexation of Territory page 4 in the Charter and you said you would like to have in that section this is a quote "This paragraph should not be construed to require the annexing party to record the same document twice." You went on to say that should be enough to clarify it. This sentence was not included in Section N and since you had requested it I was wondering if we should put it in. John Brady: I thought you voted to put that in there so I don't know why it's not here unless it wasn't picked up in the transcription. It was discussed that night so it could be added. C Martin-Brown: I'd like to read the next item that is not going to be proposed for amendment to the Charter. This would be in Section 28 the Town Budget page 26. It would have read if the Council had agreed part being the charter 1% of the total of each annually approved budget shall be dedicated for support of civic based, not for profit organizations, open to and serving all citizens without membership requirements as follows. 80% of the 1% shall be equally divided among the Milton Fire Department, the Milton Garden Club, the Milton Historical Museum, Friends of the Milton Library, the Milton Theatre and the Milton Community Foundation. Distribution of the remaining 20% of the 1% shall be determined by simple majority vote of the Town Council. The reason I wanted this in the Charter is I have been awed by the level volunteerism in this Town. And yet they must scrap and compete against each other for contributions from the Town Budget. This I thought would be a good way to assure these very, very important civic organizations that create civic cohesion and are economically important to this Town not to have to go through this annual scrapping, bowing and political gaming with the hope that they might be rewarded for their hard volunteer work. I am sorry this will not be able to be added to the Charter. C Hudson: So if we put off the voting until January we could add that? C Martin-Brown: I cannot be party C Hudson to delaying the resolution of the Charter, its closing and going to Dover to be acted upon by the State Legislature. I cannot be party to having it dragged around another 3-4 months as part of a political campaign. I regret that this is not possible, but it's not worth the 80% of the 1% to have this charter in this bind. C Duby: I think your goal in that last proposal is a laudable one and I absolutely agree with everything you said. I think we should work as a Council to resolve that issue and to come up with a similar proposal but to be honest if you proposed that as part of the Charter we would immediately have all the scrapping and the gaming and the fighting over the organization as to whose name were going to be in the Charter as getting money automatically

and whose left out. I would strongly object to putting that in the Charter right now because I think we'd be here another year and a half. C Hudson: I think since the three items were to be voted on are on the agenda and the agenda's been approved, that's what we should go ahead with. C Prettyman: I would like to go back and take my motion off the floor. Don Post: The first proposed change would read: Section 4 Structure of Government. The Government of the Town and the exercise of all powers conferred by the Charter except as otherwise provided herein shall be vested in the Mayor and the Town Council. The Mayor of the Town of Milton shall be for a period of three years commencing at the annual meeting following his/her election and continuing until a successor is duly elected and qualified. The Town Council shall be composed of six members each of whose term shall be for a period of three years commencing at the annual meeting of the Town Council following their election and continuing until each assessor is duly elected and qualified. We'll be doing this as roll call vote. C Betts, approve; C Abraham, yes; C Prettyman, no; C Martin-Brown, yes; C Duby, yes; C Hudson, no, I think the term should be for two years; Mayor Post, yes. Motion carried.

Mayor Post: Under Section 5 Qualifications for the Mayor and Town Council, letter H. If you're currently a Council Member and you file for Mayor you epsomfacto resign your Council seat. C Betts, yes; C Abraham, yes; C Prettyman, no; C Martin-Brown, no; C Duby, no; C Hudson, no, I think this punitive, just to file for Mayor is wrong; Mayor Post, no. C Betts: The reason I voted yes is because I feel when someone runs for Council and they are elected for a certain term I think they should fulfill that to the public. They should serve that time out and then if they want to run for Mayor they can do so.

Mayor Post: Section 11 Rules and Minutes of Council. The Council shall generally follow Roberts Rules of Order determine its agenda and shall keep a journal of its proceedings and the yeas and nays taken in a roll call vote shall be taken upon the passage of every ordinance and resolution and shall be entered in the journal with the text of the ordinance or resolution. However, at the discretion of the Mayor Roberts Rules of Order may be suspended. In addition, the Town Solicitor his and/or her designee shall serve a parliamentarian during Milton Town Meetings. Furthermore, Roberts Rules of Order shall prevail during meetings of Milton Town Boards and Commissions and the Solicitor or his/her designee shall serve as parliamentarian. C Betts, approve; C Abraham, yes; C Prettyman, yes; C Martin-Brown, yes; C Duby, yes; C Hudson, no, I think to put all that power into the Mayor, hands of one person, and for the rest of us to give up our vote is not in the best interest of the Town. I think it should be vote of the Council to suspend Roberts Rules of Order and not at the discretion of the Mayor. C Prettyman: That is the reason why we appoint the Mayor. As a part of the Mayor's duties it would be at his discretion with the addition from the Town Solicitor. I'm missing where you're going on this. C Hudson: Where I'm going is that under Roberts Rules of Order the Council, each one of us would have a vote, to suspend the rules and then vote to reinstate the rules. With this one sentence all of us lose our power of that vote and it ends up in the hands of one person. Further, motion was made, motion was seconded. We're in the process of a vote and not a discussion and I'm simply giving a reason for my vote. Mayor Post, I vote yes. Motion carried.

Governors Walk Sidewalk Project

Scott Hoffman: Last week we delivered to the Town the contract documents for the extensions of the Governors Walk Sidewalk. I passed out earlier an 11 x 17 color rendering which shows

the general locations of the sidewalk. There are two locations in the yellow inset. There is one segment of sidewalk behind Irish Eyes. It connects an existing sidewalk located between the Wilmington Trust parking lot and the river to the section of sidewalk that runs alongside the old hardware store and then crosses over the footbridge. The second segment of sidewalk connects the existing sidewalk and Milton Memorial Park to the sidewalk that extends from preserve on the Broadkill. If the Mayor and Council decide to move forward with this project, we will advertise it next Monday, November 12, have a pre-bid meeting on November 28, open bids on December 13 and we would like to award the project at the January Council Meeting. C Abraham: In the area of the boat docks are you talking about putting a sidewalk in front of? Scott Hoffman: In the area of the boat docks the new sidewalk is going to go between the pavement and the docks and there's going to be three short pieces that come out from the sidewalk and connect to the individual docks. Mayor Post: Will you make sure that the Chair of the Parks Committee, C Duby, reviews that prior to the RFP going out. Also, make sure the bricks will match the current Governors Walk. Scott Hoffman: Yes that is explicit in the RFP to match the pattern and color of the bricks. We've also ask that they provide a mock-up so that can be double checked. C Martin-Brown: In the insert where the red lines is that not Charlie Jones private property? Scott Hoffman: Mr. Jones owns several properties; I think it's at least two down there. We are preparing easements. Mayor Post: We already have his easements, but there's a little piece of another owner that we have another issue on. Scott Hoffman: Right. There are actually two easements that are needed for the new sidewalk which we are preparing a text for that and will forward that to Mr. Brady's office. Actually, when we were looking at it the piece of the sidewalk that's done is not in the easement that was done before. We think that should also be corrected at the same time. George Dickerson: The cross-over that you talked about, I'm not sure of the width of that. Does that accommodate heavy machinery or track vehicles? Scott Hoffman: I think the width is 14' on the plans, it should be wide enough. But we can do is put in the RFQ for those things that they either have to protect the sidewalk with some kind of bridging timbers or something like that or that they have to repair the sidewalk if it gets damaged. Mayor Post: At the entrance where people come in, such as vendors, going to be black topped? Scott Hoffman: Originally what we looked at was actually constructing the brick section there having a concrete base under it. To make it easier to get a wider selection of contractors is we put an increased thickness of stone under there. By increasing the depth of the foundation of the area under the brick you achieve the same thing. I can talk to Bob Kerr about that issue. Mayor Post: Just be sure it can hold a lot of weight going across there. C Prettyman: I'd like to make a motion that the proposed Governors Walk extension be given to Cabe so that they can go ahead and send it out for bid. C Hudson: I second the motion Mayor Post: We have a motion and a second. We'll do a roll call vote: C Betts, Yes; C Abraham, Yes; C Prettyman, Yes; C Martin-Brown, Yes; C Duby, Yes; C Hudson, Yes; Mayor Post, Yes. Motion carried.

Conditional use – Lesa and Paul Howard are requesting a conditional use for a physician's office to be located at 506 Union Street further identified by Sussex County Tax Map and Parcel #2-35-14.15-16.00

Mayor Post: Can we have who is representing the Howard's come forward? Eric Howard: On behalf of the applicants Lesa and Paul Howard, I don't have much of anything to present. Mrs. Howard and Dr. Howard here tonight to answer any questions you might have. This is a Council review of a decision from the Planning & Zoning Commission. P&Z recommended it by a vote

of 5 to 4 approval of the conditional use. It's a doctor's office; it's not a medical facility. It's a little over 3000 square feet. It is a conditional use. The conditional use ordinance says it's a use that serves the public need and convenience and will not have any detrimental adverse impact on the surrounding properties. It is appropriate to approve it as a conditional use. If the Council feels they can put conditions on it that make the sure to the extent there would be any adverse impact less adverse on the surrounding properties. As with any application of the Planning and Zoning Commission there were people who spoke in favor of it and there were also those people who spoke against it. Every property immediately contiguous to this property supported it. Six property owners that have contact with the property voiced their support for the project. We had approximately 200 letters of support from patients or friends of the Howards saying they thought it was good idea. There will be no adverse impact on this project whatsoever. I'd like to make one comment to the plans. The Howards made significant changes to the plans at the request of the administrative staff of the Town and are happy to make more changes. They seemed pleased with the changes. If the Council has questions they are happy to ask any questions. Mayor Post: The one thing I just wanted to bring up once again is to discuss conditions on that parcel. That's what makes conditional use conditions. Hopefully, they would be in agreement, I have them here in front of me. There were 7. I'll be glad to read them for the record (read into record). That was the conditions that were placed during the previous time. Eric Howard: I have two concerns. As long as it's understood we would never come back before the Council and ask for those to be changed. Mayor Post: It would be required to come back accordingly. Eric Howard: Or if someone else wanted a conditional use for that parcel they'd have to come back to the Council. With regard to the discussion we had about the deed restrictions, my concern with making it a deed restriction I personally don't believe that you have power to impose deed restrictions as a condition. I don't have any problem at all with the deed saying this was approved as a conditional use. It's not a deed restriction that runs with the land. Mayor Post: What has happened such as with other parcels in this Town is that once it has sold sometimes you don't know whether there was a conditional use, was it a change in use, what was it. There are no records. With the funeral parlor that was demolished I know whether that was a conditional use or whether it was a change use. I just think that it should be recorded into the deed so that there's a clear understanding in the future. Eric Howard: I believe my response was as long as it states that if by zoning that's what's going on. C Betts: In a conditional use it means that when you have a conditional use everything goes back to the original. Any anyone starting over would have to ask for a different conditional use. I don't think it has to be in a deed restriction. Mayor Post: I think it helps to be in the deed. John Brady: Here's what I said on July 5. #5 will be revised to say "Deed will reflect the date of the conditional use and the conditional use will expire with the sale of the property and the property currently zoned 1 residential. Eric Howard: That language was fine. Mayor Post: I agree with you that the terminology this isn't a medical complex. Dr. Wagner's has become somewhat of a medical complex because they do lab work, they do X-rays, and they have several doctors. This is a service oriented building. I've been impressed with the businesses that we have that come into our Main Street residential area that have brought some economic life to the Town. We don't want to lose that to Rte 16. I also want to go on record from this property we had a doctors' office one block in one direction and the other block we have Dr. Wagner and that has sold. There are 5 pediatricians going into that property now. I think this will be an asset to the Town. The Town needs providers and we're talking about a provider with a great reputation. Thank you for your patience. We're the ones who have made this second go around for you. C Prettyman: I'd like to say to Dr. Howard and

Lesa, thank you for coming to Milton. Your business is going to be great for our community. I feel that your business is going to help the other business in the community because when they leave there they go to the Food Lion. They may even go to Curves. They may go to one of our restaurants. With that I'd like to make a motion that the Sussex County Tax Map and Parcel 2-35-14.15-16.00 506 Union Street property with the restrictions that we accept the recommendation from Planning and Zoning. John Brady: You need to put the conditions in the record. Mayor Post: Will you read the conditions into record Town Solicitor? John Brady: The conditions that were previously done were as follows in the motion (read into record). They were the restrictions that were on there previously. I note from the record that the deed itself says Lesa Howard and is listed as the current owner. There are two applicants on here for Lesa and Paul Howard and there names should probably appear on the deed since the deed should match the applicants. C Betts: I second Mayor Post: Any discussion to the motion? C Martin-Brown: I'd like to make some comments. I agree with those that oppose this application. I'm concerned that Planning & Zoning first voted against it and then at the very next meeting without any changes in the application or the design they approved it. I'm very uncomfortable with this. If the structure is 3700 ft., I think that also is problematic. I would have liked to have seen the condition that it be reduced in size by 1000 ft. I'm not convinced that it's not a medical complex when you have 7 patient examination rooms. My ear doctor in Washington, DC that has a very high powered business has 4. He sees about 40 people a day I'm sure. I felt this is a physical invasion of a residential neighborhood that's unnecessary. In reading the record I was concerned that there was a casualness about the design of the building, it wasn't quite certain as to high it would be, it wasn't quite certain how many parking places there would. I hope that all of these questions will be answered when the applicants come back to the Council to have their plan reviewed. Mayor Post: In the report we had from Cabe my understanding is that it did meet the parking; all their parking requirements were met. C Martin Brown: In the storm water plan was not thought, yet there was casualness in the record at least as to how this was going to be dealt with. I was a little troubled by the applicants that their representatives defining what conditionality is. I feel a little better tonight know that it has to revert to residential, but I find it very hard looking at the plan as to how this could be converted to residential without somehow the applicants coming forward one more time saying the didn't understand how expensive it would be to put it back on the market as a residential structure. I think that it's fine if they want to use property and a house on it that they own save to costs, but the Town Center exercise seems to be a rather wasted amount of time that we really wanted people to bring business downtown and we have arranged for people who lived in their homes to have a business. I also remember a terrible ear beating that applicants with beauty parlors in their homes got over the number of chairs they could have for their clients. They were told they could have one and then finally they were able to go up to 2 chairs in their residence where they lived for a beauty parlor. I think this is not about the popularity of a highly respected physician, this is not about long time residency or affection for the Town, this is about a slow creeping commercialism into residential areas that change the overall sense of the community. I know I'm probably in a minority voice here, but I have a lot of sympathy for those that are very troubled by the process and by the applicant's design. Thank you for letting me feel better by venting my sentiments. Mayor Post: I want to state for the record as well that all the surrounding residents had no problem. So when you talk about people were worried about the process quite frankly I didn't like the process either. I felt that we did do it properly. The posting was on the website, was it out front, was it 18 hour or 12 hour delay correct. You can't understand why the change of vote or so forth that happened at

P&Z this was the process we chose to go because quite frankly they were approved for this once. And I even questioned whether it was the right to have two new Council people sitting up here to discuss this issue. This thing was actually voted on prior to that. I understand where you're going and there is this big issue, but with this one there's probably no grey area. C Hudson: I would like to voice my opinion as well concerning the Howard property conditional use (read document into record). Mayor Post: I just want to comment so we don't get something mistaken here on the record as C Hudson read into her record. They do have to meet everything regarding Planning & Zoning. And they do have to meet in front of the Board of Adjustment if they have requirements. We're not here to exempt them from rules and regulations. We are here discussing conditional use and conditional use only. They still have to meet their parking, their setbacks, they do have to meet their percentage of coverage which I think was incorrectly presented at Planning & Zoning because I think there were including the percentage of the driveway, which should not be included as structure, so I think that needs to be recalculated. Just for the record, I don't want the Howards to go off of here thinking that it's carte blanche and that what they presented us is final because it still has to go through the process. All we're dealing with is the conditions of this parcel. That's it. C Hudson: I would like to again say that this haphazard development. Once you set this precedent then the next people that come in from Rehoboth or Lewes looking for less expensive land than they would find in those Towns they may be people we don't know from Adam don't have any history in this Town and they want to start a business. There needs to be some protection in the residential areas. Mayor Post: Just so everyone knows. There was a car detailing business on the very property we're talking about for many years. C Prettyman: I am native Milton, born in a house at home on Mulberry Street. I go down Mulberry Street beside Margaret Riders house there was a store there. Then there was Norma's place; over on Union Street at the corner gas station, Mr. Bowers Store; before Young's Funeral Home was here it was Harmons Funeral Home there. There were other businesses in this Town. It was a Town where people could walk to various places and be treated. The residents that live in that area are all in agreement for the Howards. I listened to what C Hudson said, but I also have to look back and see the businesses that were there. Even she had a business in her yard, in her little shop. I don't understand all that's going on, but I do think that it is something that this community needs. It's just a win/win situation for the community. C Hudson: I appreciate you mentioning those 16 years I had a business in Town. It was a home occupation. I'd like to state that I did not cut down any of the trees in my backyard nor pave over my backyard nor make substantial changes to the residence in the home. It's still is a residence and did not require conditional or special use, Board of Adjustment or any other form. C Prettyman: Dr. & Mrs. Howard would love to live in their home there, but the law HIPPA says they can't. Mayor Post: We have the motion on the floor, we have the second. Let's move to the roll call vote and put this to rest. C Prettyman, Yes; C Abraham, Yes; C Betts, Yes; C Martin-Brown, No; C Duby, I've been advised by Council that since I'm a current patient of Dr. Howard I should recuse myself; C Hudson, No; Mayor Post, Yes. Motion carried.

15. New Business

A. Committee Changes-

1. Naming of Ad-hoc Committee – Opening of 150th Anniversary Time Capsule

Mayor Post: I am proposing the following members: Myself as Mayor, who will be Chairing this Committee; C Betts; George Dickerson, Emory West, Patty Millman, Melinda Huff, Ellen Passman, Charlie Fleetwood and C Prettyman. C Prettyman: I make a motion that we accept the recommendation by the Mayor for the naming of the Ad-Hoc Committee Opening of 150th Anniversary Time Capsule. C DUBY: I second it. Mayor Post: We have a motion and a second, any discussion, all in favor, motion carried.

2. Renaming of Sewer and Water Committee

Mayor Post: Renaming of Sewer and Water Committee to just be called Water Committee or H2O. We just need to remove the word Sewer and it will just be called the Water Committee. C Prettyman: I make a recommendation we remove Sewer from the Water and Sewer Committee. C Abraham: Second. Mayor Post: We have a motion and a second, any questions. C Hudson: While we have a Sewer and Water Committee we still have participation and oversight by citizens, by Town Council members of this committee and I feel that it should remain Sewer and Water Committees so that there is some oversight of Tidewater. Make sure there's compliance with the contract. And if there are any disputes or problems that we have with Tidewater they can be voiced in Committee first, maybe they can be resolved in Committee. C Prettyman: I would like to make a comment with regard to C Hudson statement. Any concerns about the sewer should be taken to our Town Manager and he works with the Tidewater people. Mayor Post: We have a motion and a second. We'll do a roll call vote: C Betts, approve; C Abraham, approve; C Prettyman, yes; C Martin-Brown, yes; C DUBY, yes; C Hudson, no; Mayor Post, yes. Motion carried.

3. Dissolving of 200th Anniversary Committee

Mayor Post: We need a motion to remove the 200th Anniversary Committee C DUBY: So moved. C Abraham: Second. Mayor Post: We have a motion and a second, any discussion, all in favor, motion carried.

4. Appointment of new member to Economic Development Committee

Mayor Post: I would like to appoint Ellen Passman to the Economic Development Committee. C Martin-Brown: I'd like to make a motion that Ellen Passman be appointed to the Economic Development Committee C DUBY: Second Mayor Post: We have a motion and a second, any discussion, all in favor, motion carried.

B. Proclamation – Diabetes Day

Mayor Post: November 14th is World Diabetes Day. Across Delaware there are about 8 or 9 towns, including the City of Wilmington have come on board to do a proclamation recognizing this day. There will be numerous blood screenings held at fire stations across the state. We haven't had any from Sussex come on board, but in Kent and New Castle we have about 10 fire stations that are participating. John Brady: Town of Milton proclamation. Whereas diabetes affects nearly 21 million Americans including approximately 53,000 Delawareans and is doubling in America every 12-14 years it is perhaps the most expensive disease. C Prettyman: I make a motion to suspend the reading of the proclamation. C DUBY: I second. Mayor Post: All

in favor. Now we need a motion to approve the proclamation. C Duby: So moved. Mayor Post: We have a motion and second, any discussion, all in favor, motion carried

C. First Reading – Ordinance regarding penalties for violations of the municipal code
John Brady: (Read into record) this needs to be set for a public hearing and final consideration no earlier than the December 2007 meeting.

D. Request for waiver of variance fee for new sign – Grace Church tax map and parcel 2-35-14.15-17.00

C Martin-Brown: Has this been tradition with other churches? Mayor Post: Yes. C Martin-Brown: Then I'd like to make a motion that we waive the fee. C Betts: Second. Mayor Post: We have a motion and a second, any discussion, all in favor, motion carried

E. First Reading – Ordinance regarding parking on Church Street

John Brady: This is the first reading of an Ordinance to Amend Chapter 18 Article 6 Section 18.34 relating to parking on Church Street. Amend Chapter 18 Article 6 Section 18.34 subpart N to read as follows: After N (the right hand side of Church Street from the corner of Chestnut St. to Federal Street, and insert a new O (). That reading is November 5, 2007. It should be set for public hearing and cannot be enacted any earlier than December 2007.

17. Adjournment 9:51 p.m.

C Prettyman: I make a motion we adjourn the meeting. C Abraham: Second. Mayor Post: We have a motion and a second, any discussion, all in favor, motion carried.

Respectfully Submitted,

Stephanie Coulbourne
Town Clerk